

**MINUTES OF THE MARCH 2014 MEETING  
OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**

Date of meeting: The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held on Friday, March 7, 2014, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa.

Members present: Senator Wally Horn, Chair, and Representative Dawn Pettengill, Vice Chair; Senators Mark Chelgren, Thomas Courtney, Pam Jochum, and Roby Smith; Representatives Lisa Heddens [by teleconference], Rick Olson, Jeff Smith, and Guy Vander Linden were present.

Also present: Joseph A. Royce and Jack Ewing, Legal Counsel; Stephanie A. Hoff, Administrative Code Editor; Brenna Findley, Administrative Rules Coordinator; fiscal staff; caucus staff; and other interested parties.

Convened Sen. Horn convened the meeting at 9:04 a.m.

**Fiscal overview** Adam Broich presented the LSA fiscal report. In response to an inquiry from Rep. Pettengill, Mr. Broich explained that the LSA response is intended to include information about the appropriation related to the rule making. In response to an inquiry from Sen. Smith, Mr. Royce will request on behalf of the committee that agencies include in the preamble of a rule making not only the dollar amount of an increase (e.g., a fee increase) but also the percentage of increase.

**PHARMACY BOARD** Terry Witkowski represented the board.

ARC 1308C No action on amendments to chs 6 and 7 regarding procedures required during the absence of the pharmacist.

ARC 1307C No action on amendments to 11.20(1) regarding the use of the automated medication distribution system (AMDS) by EMS programs.

ARC 1309C Amendments to 22.1(1) and 22.5 pertain to strip pack dispensing of drugs. Ms. Witkowski clarified for Sen. Courtney the process for formulating a strip pack, which is a patient med pak, and the specific circumstances that either permit or prohibit the return of medications to a pharmacy; and for Rep. Pettengill, the specific circumstances that allow a medication to be reused by a pharmacy. In response to an inquiry from Sen. Horn, Ms. Witkowski stated that the board has no authority or control over third-party payers whose billing policies might preclude payment for prescriptions after a patient's death.

**Committee review of emergency rule making** Ms. Witkowski presented for committee review the emergency rule making described below and requested committee approval of the rule making prior to emergency adoption.

New 10.38(2) pertains to the temporary classification as Schedule I controlled substances four synthetic cannabinoids and ten synthetic cathinones in conformance with recent control of these same substances by the U.S. Department of Justice.

Motion to approve Rep. Pettengill moved approval of the emergency rule making.

Motion carried On a voice vote of 9 to 0, the motion carried.

**RACING AND GAMING COMMISSION** Brian Ohorilko represented the commission.

ARC 1310C Proposed amendments to chs 4, 5, 10 and 11 pertain to license suspension, debt arrangements, jockey agent representation, the definition of "administrator," and gambling game shipping notification. In response to an inquiry from Sen. Courtney, Mr. Ohorilko stated that a person's self-imposed exclusion from Iowa casinos applies to the entire facility, including the non-casino areas where weddings may be held. Mr. Ohorilko will provide the committee information about whether the self-exclusion form can be changed by the commission or whether a change would require legislation.

**EDUCATION DEPARTMENT** Mike Cormack, Barbara Ledvina, Kent Farver, Ann Feilmann, David Tilly, Lawrence Bice, and Marietta Rives represented the department.

ARC 1330C No action on amendments to 1.2 pertaining to the expansion of the length of service by the student member of the state board of education.

ARC 1340C Proposed amendments to ch 21 concern the drinking drivers course.

Education Department (continued)

Discussion pertained to the required length, in hours, of in-state and out-of-state courses; the opportunity for offenders to take the course while incarcerated; the duration of a course; and the advisory committee.

Rep. Vander Linden stated that out-of-state persons should complete the same number of course hours as Iowans. Sen. Chelgren concurred and added that the number of required course hours should be defined and maintained. Rep. Olson suggested that out-of-state persons should complete the required course hours in their respective states.

In response, Mr. Farver stated that the provision that allows fewer course hours for out-of-state persons (i.e., at least 8 hours) could be eliminated so that out-of-state persons would be held to the same standard as that of Iowans (i.e., 12 hours). Ms. Ledvina clarified for Rep. Olson that current practice allows an incarcerated offender to take the course at no cost before the offender's release from a correctional institution.

ARC 1341C

Proposed 58.11 relates to nutritional content standards for foods and beverages sold to students (e.g., vending, á la carte lines, and school stores) outside the reimbursable meals that are part of the National School Lunch programs. Ms. Feilmann explained that the 2008 Healthy Kids Act sets the state nutritional standards and that the Act requires a five-year review by an advisory panel whose composition is specified in Iowa Code section 256.9(55). That review, in 2013, coincided with the June 28, 2013, publication of the USDA final interim rule concerning the same standards. Ms. Feilmann noted that the federal standards permit diet sodas and carbonated water within specified calorie limits and change the calculation of sugar content based on weight. She stated that after extensive discussion and review of the state and federal standards, the advisory panel recommended to the board the adoption of the federal standards.

Discussion pertained to calorie counts, adequacy of portions, and overall nutrition; limits on choices; the time line for adoption; adoption of standards by reference vs. the inclusion of standards in rule; a date certain within the rule; the advisory panel; and the application of the rule.

In response, Mr. Cormack stated that there are no limits on the choices and numbers of items a student may purchase and that in general the federal standards proposed for adoption by the state are less restrictive and more expansive than the state standards. Mr. Cormack added that the federal standards are acceptable to educational entities and to industry alike. In addition, Mr. Cormack assured the committee and Ms. Findley that the adoption of federal standards by reference will be limited to a date certain to be stated in the rule. Ms. Feilmann noted that flyers and other explanatory material regarding the federal standards will be available to school food authorities, which may identify and impose limits on items allowed under federal standards, such as diet sodas. Ms. Feilmann concluded that overall, the federal standards balance the calories and weight of food and beverage items and provide moderate restrictions.

ARC 1331C

No action on ch 62, state standards for progression in reading.

ARC 1339C

No questions on proposed amendments to 79.15(7)“a” regarding an alternate subject assessment for teacher candidates.

ARC 1338C

No questions on proposed 83.6 pertaining to professional development for teachers.

**EDUCATIONAL EXAMINERS BOARD** Darcy Lane represented the board.

ARC 1344C

No questions on a proposed amendment to 11.4(1)“a” pertaining to eligibility to file an ethics complaint.

ARC 1343C

No questions on proposed amendments to 13.3(6) and 13.17(1) allowing out-of-state and exchange license applicants to provide a valid or expired license with the application.

ARC 1328C

No action on amendments to chs 13 and 27 pertaining to the licensure and practice of professional school counselors.

ARC 1324C

No action on amendments to 13.16(1) requiring both Iowa and out-of-state graduates to pass the same assessments for substitute licensure.

ARC 1323C

No action on an amendment to 13.17(3)“a” pertaining to an international exchange license.

**Educational Examiners Board (continued)**

- ARC 1327C No action on amendments to 13.28(9) concerning family and consumer science endorsements.
- ARC 1326C No action on amendments to 18.4 pertaining to the initial administrator license.
- ARC 1322C No action on 22.7 pertaining to the Iowa jobs for America's graduates (iJAG) authorization. Rep. Pettengill commended the program.
- ARC 1325C No action on amendments to 24.3 and 24.4(2) regarding competencies for generalists and special needs concentration related to paraeducators.

**ENVIRONMENTAL PROTECTION COMMISSION** Joe Griffin and Dan Olson represented the commission.

- ARC 1337C No action on amendments to 64.6 and 64.15 pertaining to notices of intent and transfer agreements related to storm water permits.
- ARC 1336C No action on amendments to 93.3(1) and 93.4(1) regarding the onsite wastewater assistance program. Rep. Pettengill expressed appreciation for the program.

**INSPECTIONS AND APPEALS DEPARTMENT** David Werning represented the department.

- ARC 1305C No action on amendments to ch 51 pertaining to hospital accreditation organizations.
- ARC 1304C No action on 51.41 regarding criminal, dependent adult abuse, and child abuse record checks for prospective hospital employees.
- ARC 1313C No questions on proposed amendments to ch 58 regarding administrators, services, and classification of violations related to nursing facilities.

**LABOR SERVICES DIVISION** Kathleen Uehling represented the division.

- ARC 1333C Proposed amendments to 90.7 pertain to fees related to the boiler and pressure vessel program. Discussion pertained to the types of certificates, the inspection schedule, and the basis for and anticipated revenue from the fee increases.
- Ms. Uehling stated that the inspection schedule is set forth in Iowa Code section 89.3 and clarified that annual inspections are required regardless of the granting of one-, two- and four-year certificates. She explained that expenses are depleting program funds and that the anticipated revenue from the fee increases, expected to fund the program for five more years, is \$428,000.
- Sen. Chelgren stated a preference for a percentage increase in fees. Rep. Smith suggested that to keep fees in line with expenses, an annual fee increase be considered.

**NURSING BOARD** Kathy Weinberg represented the board.

- ARC 1312C Proposed amendments to 1.3 and 1.4 pertain to the description and organization of the board and to the newsletter.
- Discussion pertained to the amendment regarding Robert's Rules of Order and to the purpose and content of the newsletter. Ms. Weinberg stated that the amendment regarding Robert's Rules of Order was proposed under notice before current legislation regarding the use of Robert's Rules of Order was introduced. She also explained that the newsletter contains articles and advertisements related to the nursing profession. Sen. Chelgren suggested that the purpose of the newsletter be defined and that the newsletter provide reminders regarding license renewals.

**PUBLIC HEALTH DEPARTMENT** Carmily Stone, Cindy Houlson and Barb Nervig represented the department.

- ARC 1299C No action on amendments to 28.1 pertaining to licensure fees related to plumbing and mechanical systems. Ms. Houlson clarified for Rep. Pettengill the conversion of an HVAC-refrigeration or hydronics license to a mechanical license.
- ARC 1317C No questions on proposed amendments to 41.6 and 41.7(7) regarding workstations, physician training and quality control related to mammography and stereotactic breast biopsy equipment.
- ARC 1300C No action on amendments to ch 93 that make review and approval of mandatory reporter training curricula a duty of the department.
- ARC 1316C No questions on proposed amendments to 127.4 regarding reimbursement for certain autopsies.
- ARC 1315C No questions on proposed ch 206, Iowa health information network.

**HUMAN SERVICES DEPARTMENT** Jennifer Harbison and Theresa Armstrong represented the department.

ARC 1329C No action on ch 22, autism support program. Ms. Armstrong clarified for Sen. Jochum that to match the statute, the department developed the chart of cost-sharing requirements in 22.3(1).

ARC 1297C No action on amendments to 78.1(20)“a” regarding Medicaid coverage for transplants.

ARC 1311C No questions on the proposed rescission of ch 169, funding for empowerment areas. Ms. Harbison explained that the authority to set policy and promulgate administrative rules for the early childhood funds was transferred from the department to the early childhood Iowa state board in 2013 Iowa Acts, Senate File 446, section 16(8).

**REVENUE DEPARTMENT** Jim McNulty, Brad Hopkins and Victoria Daniels represented the department.

ARC 1303C No action on amendments to chs 3, 6 to 8, 10, 38 to 43, 46, 48, 52, 53, 58 and 59 concerning department organization and individual, corporation and franchise taxes and credits.

ARC 1306C No action on amendments to 71.21 pertaining to the property assessment appeal board. In response to an inquiry from Sen. Jochum, Mr. Hopkins provided examples of stakeholder groups that provided input on the rules, including assessor and taxpayer groups and county attorneys.

ARC 1332C No action on 80.49, county replacement claims related to commercial and industrial property tax replacement.

**ADMINISTRATIVE SERVICES DEPARTMENT** Caleb Hunter represented the department.

ARC 1302C No questions on proposed amendments to chs 1, 117 and 118 pertaining to procurement.

**COLLEGE STUDENT AID COMMISSION** Julie Leeper represented the commission.

ARC 1318C No action on amendments to 1.2 concerning updates and clarifications related to the commission’s organization and operation.

ARC 1346C No questions on proposed amendments to chs 2 and 3 pertaining to rule-making notifications and the update of the commission address.

ARC 1319C No action on amendments to 20.1 regarding the Iowa national guard educational assistance program.

ARC 1320C No action on ch 24, the rural Iowa primary care loan repayment program.

ARC 1321C No action on ch 25, rural Iowa advanced registered nurse practitioner and physician assistant loan repayment program.

ARC 1345C No questions on a proposed amendment to 27.1(7)“b” regarding additional student eligibility under the Iowa grant program.

**Committee business** The minutes of the February 7, 2014, meeting were approved.  
The next meeting was scheduled for Friday, April 4, 2014, at 9 a.m.

Adjourned The meeting was adjourned at 11:28 a.m.

Respectfully submitted,

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Stephanie A. Hoff

APPROVED:

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Chair Wally Horn

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Vice Chair Dawn Pettengill